

ESTTA Tracking number: **ESTTA533643**

Filing date: **04/22/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Cequent Performance Products, Inc.
Granted to Date of previous extension	04/24/2013
Address	47912 Halyard Drive, Suite 100 Plymouth, IN 48170 UNITED STATES
Attorney information	WILLIAM A MCKENNA WOODARD EMHARDT MORIARTY MCNETT ET AL 111 MONUMENT CIRCLE, SUITE 3700 INDIANAPOLIS, IN 46204 UNITED STATES wmckenna@uspatent.com, docketing@uspatent.com Phone:317-634-3456

Applicant Information

Application No	77938369	Publication date	12/25/2012
Opposition Filing Date	04/22/2013	Opposition Period Ends	04/24/2013
International Registration No.	NONE	International Registration Date	NONE
Applicant	ILES Professional Engineering Corporation 574 Cora Greenwood Dr. Windsor, Ontario, N8P1K1 CANADA		

Goods/Services Affected by Opposition

Class 012. All goods and services in the class are opposed, namely: Tarpaulins specially designed for flatbed trailers of tractor-trailer semi trucks comprising four walls, a roof, and aluminum extension and connection parts for forming a weatherproof, enclosed cargo bay capable of being retracted to allow direct access to the flatbed

Grounds for Opposition

Deceptiveness	Trademark Act section 2(a)
False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration	1250935	Application Date	05/27/1982
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No.			
Registration Date	09/13/1983	Foreign Priority Date	NONE
Word Mark	DRAW.TITE		
Design Mark			
Description of Mark	The mark sought to be registered comprises the words "Draw.Tite" in a stylized form in association with a stylized representation of a towing ball.		
Goods/Services	Class 006. First use: First Use: 1978/00/00 First Use In Commerce: 1978/00/00 Wheel Locks Class 009. First use: First Use: 1978/00/00 First Use In Commerce: 1978/00/00 Electrical Wire Connectors, Flasher Units, Electrical Tail Lamp Converters, All for Use on Automobiles, Trucks and Trailers Class 012. First use: First Use: 1978/00/00 First Use In Commerce: 1978/00/00 Tailgate Protectors, Tire Carriers, Running Boards, and Towing Equipment- Namely, Hitches, Hitch Balls, Couples, Tow Bars and Parts Thereof Therefore		

U.S. Registration No.	896780	Application Date	04/18/1969
Registration Date	08/18/1970	Foreign Priority Date	NONE
Word Mark	DRAW TITE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U019 (International Class 012). First use: First Use: 1947/11/00 First Use In Commerce: 1947/11/00 TRAILER ACCESSORIES-NAMELY, HITCHES, HITCH BALLS, [COUPLES,] TOWBARS, [AND DOLLIES]		

Attachments	Notice of Opposition.pdf (6 pages)(147021 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by Overnight Courier on this date.

Signature	/William A. McKenna, Reg. No. 64,488/
Name	WILLIAM A MCKENNA
Date	04/22/2013

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of trademark application Serial No. 77/938,369
For the mark DRAW-TITE
Published in the Official Gazette on December 25, 2012

CEQUENT PERFORMANCE PRODUCTS, INC.

v.

Opposition No. _____

ILES PROFESSIONAL ENGINEERING CORP.

NOTICE OF OPPOSITION

Cequent Performance Products, Inc. (hereinafter “Opposer”), a Delaware corporation, having an address of 1050 Indianhead Dr., Mosinee, Wisconsin 54455, believes it will be damaged by the registration of DRAW-TITE, U.S. Trademark Application Serial No. 77/938369, and hereby opposes the registration thereof. The Application was published in the Official Gazette on December 25, 2012. The time to file the Notice of Opposition has been extended to April 24, 2013.

The grounds for the Opposition are as follows:

OPPOSER’S DRAW TITE® TRADEMARK

1. Opposer is the owner of Registration No. 896,780 on the mark DRAW TITE for trailer accessories-namely, hitches, hitch balls, towbars in International Class 12, issued on August 18, 1970, a copy of which is attached and made a part hereof. Registration No. 896,780, which issued from U.S. Trademark Application Serial No. 72/324897, filed April 18, 1969, is in full force and effect and has not been cancelled or abandoned, and has further acquired “incontestable” status.

2. Opposer is the owner of Registration No. 1,250,935 on the stylized mark DRAW TITE for tailgate protectors, tire carriers, running boards, and towing equipment-namely, hitches, hitch balls, couples, tow bars and parts thereof therefore in International Class 12, electrical wire connectors, flasher units, electrical tail lamp converters, all for use on automobiles, trucks and trailers in International Class 9, and wheel locks in International Class 6, issued on September 13, 1983, a copy of which is attached and made a part hereof. Registration No. 1,250,935, which issued from U.S. Trademark Application Serial No. 73/366802, filed May 27, 1982, is in full force and effect and has not been cancelled or abandoned, and has further acquired “incontestable” status.

3. Since prior to the filing date of Applicant's application, Opposer's mark DRAW TITE has been in continuous and uninterrupted use in connection with trailering products, including the aforementioned goods listed in Registration Nos. 896,780 and 1,250,935, and substantial goodwill has been developed in connection therewith.

4. The DRAW TITE® marks are heavily promoted in advertising and are well known to consumers.

5. Opposer has expended substantial sums of money as well as considerable time and effort in promoting and popularizing its DRAW TITE® marks, and Opposer continues to do so. As a result, Opposer's DRAW TITE® marks have become well and famously known to the purchasing public.

6. Opposer's DRAW TITE® trademarks are entitled to a broad scope of protection.

APPLICANT'S DRAW-TITE APPLICATION

7. Applicant seeks registration of the mark DRAW-TITE through U.S. Trademark Application Serial No. 77/938,369, filed February 18, 2010, for tarpaulins specially designed for

flatbed trailers of tractor-trailer semi trucks comprising four walls, a roof, and aluminum extension and connection parts for forming a weatherproof, enclosed cargo bay capable of being retracted to allow direct access to the flatbed in International Class 12 (hereinafter “Applicant’s Goods”).

8. The mark for which Applicant seeks registration is virtually identical and confusingly similar to Opposer’s prior registered mark DRAW TITE, and registration is being sought on goods which are closely related to and/or travel in the same channels of trade as the goods listed in Opposer’s registrations and currently sold in connection with Opposer’s mark.

9. Opposer’s DRAW-TITE® trademarks have registered and common law priority over Applicant’s DRAW-TITE mark.

10. The use of the mark sought to be registered by Applicant is likely to cause confusion, mistake and deception in the minds of the public and to lead the public to believe that Applicant’s goods identified thereby have their source in Opposer or that in some way Opposer is endorsing or sponsoring such goods, or that Opposer is in some way associated with Applicant in providing the goods so identified.

11. The registration by Applicant of the mark sought to be registered should be denied. If Applicant succeeds in registering its mark, there will be statutory rights created thereby in violation of the earlier established rights of Opposer, all to the harm of Opposer’s goodwill and with the resultant diminution of Opposer’s rights, all to the damage and injury of Opposer and of the public.

WHEREFORE, Opposer files this Notice of Opposition and prays that the Application herein opposed be denied; that registration of the subject mark be refused; and for such other and further relief in the premises as may be deemed to be just and proper.

The opposition filing fee of \$300.00 for one opposer on one class of goods is presented herewith.

Please recognize as Opposer's attorneys the following: John V. Moriarty 26,207; John C. McNett 25,533; Thomas Q. Henry 28,309; James M. Durlacher 28,840; Charles R. Reeves 28,750; Vincent O. Wagner 29,596; Steve Zlatos 30,123; Spiro Bereveskos 30,821; Daniel J. Lueders 32,581; Kenneth A. Gandy 33,386; Timothy N. Thomas 35,714; Kurt N. Jones 37,996; Charles J. Meyer 41,996; Lisa A. Hiday 40,036; Christopher A. Brown 41,642; Charles P. Schmal 45,082; Quentin G. Cantrell 47,469; Marta L. Paul 57,256; Elizabeth A. Shuster 52,672; James R. Blaufuss 58,473; Bobak P. Jalaie 57,663; William A. McKenna 64,488; Michael M. Morris 70,177; Jeremy J. Gustrowsky 68,047; Matthew M. Gardlik 67,089; Joshua P. Astin 68,932, all of the same address and who are members of the Bar of the State of Indiana, constituting the firm of Woodard, Emhardt, Moriarty, McNett & Henry LLP, 111 Monument Circle, Suite 3700, Indianapolis, Indiana 46204-5137, its attorneys herein, with full power of substitution and revocation, to transact all business in the Patent and Trademark Office and in the courts in connection herewith.

Please direct all correspondence to:

William A. McKenna
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Respectfully submitted,

Cequent Performance Products, Inc.

By:



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*Attorneys for Opposer
Cequent Performance Products, Inc.*

#914188

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Notice of Opposition is being sent via Federal Express – Overnight Delivery on April 22, 2013 in a postage prepaid envelope addressed to Applicant and Applicant's Representative:

Mr. Ilir Beshiri, President
ILES Professional Engineering Corporation
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Mr. Gerald. E. Trottier
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with a confirmation copy via-email to:

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William A. McKenna